

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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ARTHUR R. and MARY C. VENDER, )  
Appellants, ) DOCKET NO.: PT-2003-38  
-vs- ) FACTUAL BACKGROUND,  
THE DEPARTMENT OF REVENUE ) CONCLUSIONS OF LAW,  
OF THE STATE OF MONTANA, ) ORDER and OPPORTUNITY  
Respondent. ) FOR JUDICIAL REVIEW  
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The above-entitled appeal was heard on July 13, 2004, in Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. The taxpayer, Arthur R. Vender, appeared on his own behalf. The Department of Revenue (DOR), represented by Appraiser Marlyann Lawson, presented testimony in opposition to the appeal.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony was taken from both the taxpayer and the Department of Revenue, and exhibits from both parties were received.

The Board affirms the decision of the Cascade County Tax Appeal Board and the DOR value for the subject land.

**FACTUAL BACKGROUND**

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The subject property is residential in character and described as follows:

Land only described as Lot 2, Block 771, 10th Addition to the City of Great Falls at 1606 8th Avenue South, County of Cascade, State of Montana. (Assessor ID #: 0000331850).

3. For tax year 2003, the Department of Revenue appraised the subject land at a value of \$15,500.

4. The taxpayer filed an appeal with the Cascade County Tax Appeal Board on August 16, 2003, requesting a land value of \$10,000, stating the following reasons for appeal:

Property is located across the street from Parkdale and doesn't have the value if it would be a few blocks from Parkdale.

5. In its December 8, 2003 decision, the county board denied the taxpayer's appeal, stating:

After hearing testimony and reviewing exhibits, the Board finds the land value of \$15,500.00 accurately reflects the true market value of the property. This appeal is disapproved.

6. The taxpayer then appealed that decision to this Board on December 19, 2003, citing the following reason for appeal:

I live across the street from a low-income housing development and I don't think the property will sell for what it is appraised at.

#### **TAXPAYER'S CONTENTIONS**

Mr. Vender contends that the value placed on his real property by DOR is in excess of market values for the area. He notes that his lot and house are across the street from a public housing project, known as Parkdale, and feels that this location adversely affects the value of his property. He states that due to a shortage of off-street parking at Parkdale many residents park their vehicles on the street and in front of his house, restricting street parking for his family and their guests. He further notes that with the activity related to residential parking there is often litter and other debris that ends up on his property or on the street immediately adjacent to it.

A further adverse element affecting his property value, according to Mr. Vender, is the fact that there is water

drainage toward his block when there is a storm or other large flow of water in the area. The adjoining area of Chowen Park is apparently a flood basin when excess water is present.

Mr. Vender offered anecdotal evidence that a friend of his was not able to obtain the values used by DOR when he offered his house on the real estate market, and in fact had to cut the value by 25% in order to sell the property.

In his summary Mr. Vender simply feels the values used by DOR in his neighborhood are too high and do not reflect actual market values.

#### **DOR'S CONTENTIONS**

Appraiser Marlyann Lawson presented testimony and submitted exhibits on behalf of the DOR. The neighborhood in which the subject land is located is defined as Neighborhood 8 and encompasses the central residential area of Great Falls from 10<sup>th</sup> Avenue South to the south over to Black Eagle on the north. The typical city lots in Neighborhood 8 are 50' by 150', for a total lot size of 7500 square feet, the same as Mr. Vender's property.

The first exhibit submitted by Ms. Lawson was the Property Record Card for the subject property. Marked as

Exhibit A, the Property Record Card shows an appraisal of \$310 per front foot, for a total value of \$15,500. When converted to square feet, the value works out to \$2.07 per square foot. The second exhibit, marked Exhibit B, is a confidential review of 32 vacant lot sales within Neighborhood 8 that occurred within the appraisal cycle.

Exhibit C is a map of properties within the immediate area of Parkdale during the current appraisal cycle, and shows that 29 improved properties sold during the period of the appraisal cycle, and that nine of those properties sold twice. Exhibit D is confidential information related to the purchase of 7 vacant lots in the immediate vicinity of the subject property and Parkdale residences. The final Exhibit submitted by DOR is a chart comparing the subject property with other improved properties in the same block. It was submitted to demonstrate that the values applied to the subject property were applied to similar properties within the immediate vicinity of the taxpayer's property.

DOR feels that an examination and comparison of taxpayer's property with similar property in the area show that he is not paying a disproportionate share of taxes on his property.

## **BOARD'S DISCUSSION**

The Board finds that the DOR has satisfactorily demonstrated that its appraisal of the subject land was performed in accordance with statute and administrative rule.

Exhibit B is a list of 32 vacant land sales in Neighborhood 8 during the appraisal cycle. Without doing an extensive analysis, it is clear from reviewing the data that there are many sales of 7,500 square foot lots that support a value of \$15,500, particularly when the sale prices are time-adjusted to January 1, 2002. While Exhibit B involves the sale of improved properties, it shows that in the vicinity of Parkdale where taxpayer resides, there is an active market for residential properties. It could reasonably be assumed from this data, that the effects of living near a public housing project, as described by taxpayer in his testimony, would be reflected in the values that are currently being paid in the market.

DOR's Exhibit D shows that a recent sale of vacant lots in the immediate area of taxpayer, and presumably subject to some of the same "negatives" that he describes, sold in a market transaction for an amount in excess of \$16,800 per

lot. The final exhibit submitted by DOR (Exhibit E) shows that in his immediate neighborhood the land values used by DOR are quite comparable to similar properties. Three lots the same size as taxpayer's are valued at \$15,500, and the lot that is twice the size in area (15,000 sq. feet) is twice the size in value (\$31,000).

The Board's review of the evidence submitted by the taxpayer and the DOR shows that there is substantial and compelling sales evidence in support of the value used by the DOR

Accordingly, the Board will uphold the value as determined by the DOR.

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**CONCLUSIONS OF LAW**

1. The State Tax Appeal Board has jurisdiction over this matter. §15-2-301, MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. The appeal of the taxpayer is denied and the decision of the Cascade County Tax Appeal Board is affirmed.

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**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the local Department of Revenue office at the land value of \$15,500 for tax year 2003, as determined by the DOR. The decision of the Cascade County Tax Appeal Board is affirmed.

Dated this 4th day of August, 2004.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

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GREGORY A. THORNQUIST, Chairman

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JERE ANN NELSON, Member

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JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 4<sup>th</sup> day of August, 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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1606 8<sup>th</sup> Avenue South  
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Department of Revenue  
Mitchell Building  
Helena, MT 59620

Ms. Dorothy Thompson  
Property Tax Assessment  
Department of Revenue  
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Cascade County Appraisal Office  
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Nick Lazanas  
Chairperson  
Cascade County Tax Appeal Board  
Courthouse Annex  
Great Falls, Montana 59401

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DONNA EUBANK  
Paralegal